



DIVISION OF
ENFORCEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

October 20, 2020

Via ECF

Hon. Peggy Kuo
United States Magistrate Judge
U.S. District Court - Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *SEC v. Grybniak et al.* 1:20-cv-327-EK-PK

Dear Judge Kuo:

Pursuant to the Court's Order of May 19, 2020 (ECF No. 23), Plaintiff U.S. Securities and Exchange Commission ("Plaintiff" or "SEC") and Defendants Sergii "Sergey" Grybniak and Opperty International, Inc. ("Opperty") (collectively "Defendants") submit this joint status report advising the Court on the status of the above-entitled case, including the progress of discovery and settlement negotiations.

(1) Progress of Discovery

On April 28, 2020, the SEC served on Defendants its Initial Disclosures pursuant to Fed. R. Civ. P. 26(a), and on the same day made an initial production of over 1200 documents collected during its pre-filing investigation – many of which Defendants produced during the SEC's investigation. Defendants made their Initial Disclosures on May 19, 2020.

Pursuant to the Scheduling Order entered by the Court on May 19, 2020 (ECF No. 23), the SEC served its First Request for Production and First Set of Interrogatories on July 16, 2020. On August 30, 2020, Defendants served their Objections and Answers to the SEC's First Set of Interrogatories. On the same date, Defendants served their Objections and Responses to the SEC's First Request for Production, and therein indicated they would "conduct a reasonable search for responsive, non-privileged documents" (not previously produced during the SEC's pre-filing investigation) and produce such documents to the SEC. Defendants intend to produce to the SEC any additional responsive, non-privileged documents in substantial part by Friday, October 30, 2020.

On July 30, 2020, Defendants served on the SEC their First Request for Production and First Set of Interrogatories. The SEC served its Objections and Answers

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to Defendants' First Set of Interrogatories on October 2, 2020. On the same date, the SEC served its Objections and Responses to Defendants' First Request for Production, and therein indicated it would produce any responsive, non-privileged documents within 21 days. Accordingly, the SEC produced such documents (approximately 10,000 pages) to Defendants on October 19, 2020.

The SEC has also conducted limited third-party discovery. On July 21, 2020, the SEC served subpoenas to produce documents (pursuant to Fed. R. Civ. P. 45) on two relevant entities. On August 31, 2020, the SEC provided to Defendants all documents produced in response to those two subpoenas.

The parties plan to schedule depositions soon and, pursuant to the Scheduling Order (ECF No. 23), complete fact discovery on or before March 15, 2021. The parties have agreed in principle to conduct depositions remotely due to safety concerns arising from the COVID-19 pandemic, and intend to discuss and reach an agreement regarding the procedures applicable to the taking of remote depositions.

(2) Settlement Discussions

Since the Initial Conference held on May 19, 2020, the parties' counsel have met telephonically at least three times and have exchanged several e-mails discussing a potential resolution to this case. However, at this stage of the case, with deposition discovery yet to commence, the parties do not believe that a settlement conference or other alternative dispute resolution measures would be productive.

Thank you for your time and attention in this matter. If you have any additional questions, Mr. Margida can be reached at (202) 551-8504, and Mr. Dellaportas can be reached at (212) 238-3092.

Respectfully submitted,

/s/ Nicholas C. Margida

Nicholas C. Margida
Counsel for Plaintiff

/s/ John Dellaportas

John Dellaportas
Counsel for Defendants

Cc: All Counsel of Record (via ECF)